

Sent: Monday, May 16, 2016 6:13 PM

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Subject: Dear Colleague Letter - Civil Rights Protection for Transgender Students

Good Afternoon All,

I thought it best to share with you a few things that were included in the *Dear Colleague Letter* from the Obama Administration's U.S. Department of Justice Civil Rights Division. "The letter summarizes a school's Title IX obligations regarding transgender students and explains how the U.S. Department of Education and the U.S. Department of Justice evaluate a school's compliance with these obligations."

Topics addressed follow and a brief summary is included therein:

- **Compliance with Title IX** – The Departments treat a student's gender identity as the student's sex for purposes of Title IX and its implementing regulations. **This was addressed in our October, 2015 training.**
 - This means that the school must not treat a transgender student differently from the way it treats other students of the same gender identity.
 - Under Title IX, there is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity.
- **Safe and Nondiscriminatory Environment**
 - Harassment that targets a student based on gender identity, transgender status, or gender transition is harassment based on sex and will be enforced according to Title IX.
 - If the harassment creates a hostile environment, the school must take prompt action. **This was addressed in our October, 2015 training.**
- **Identification Documents, Names and Pronouns**
 - Schools must treat students consistent with their gender identity even if their education records or identification documents indicate a different sex. **This was addressed in our October, 2015 training.**
- **Sex-segregated Activities and Facilities**
 - Transgender students must be allowed participate in activities and have access to facilities consistent with their gender identity. **This was addressed in our October, 2015 training.**
- **Athletics** – A school may not adopt or adhere to requirements that rely on overly broad generalizations or stereotypes about the differences between transgender students and other students of the same sex. Title IX does not prohibit age-appropriate, tailored requirements based on sound, current, and research-based medical knowledge about the impact of the students' participation on the competitive fairness or physical safety of the sport.

- **Housing and Overnight Accommodations –**

- Title IX allows a school to provide separate housing on the basis of sex. But a school must allow transgender students to access housing consistent with their gender identity and may not require transgender students to stay in a single-occupancy accommodations or to disclose personal information when not required of other students.
- Nothing in Title IX prohibits a school from honoring a student’s voluntary request for single-occupancy accommodations if it so chooses.

- **Single-Sex Classes–** When offering single-sex classes, a school must allow transgender students to participate in classes consistent with their gender identity.

- **Single-Sex schools–** Title IX does not apply to the admissions policy of certain educational institutions, including non-vocational elementary and secondary schools, and private undergraduate colleges.

- **Other Sex-Specific Activities and Rules**

- A school may not discipline or exclude transgender students from participating in activities for appearing or behaving in a manner that is consistent with their gender identity or that does not conform to stereotypical notions of masculinity or femininity (e.g. in yearbook photographs, at school dances, or at graduation ceremonies).

- **Privacy and Education Records –**

- Protecting transgender students’ privacy is critical to ensuring they are treated consistent with their gender identity. Nonconsensual disclosure of personally identifiable information, could be harmful or invade the privacy of transgender students and may also violate FERPA. **This was addressed in our October, 2015 training.**

- **Disclosure of Personally Identifiable Information from Student Records –** FERPA prevents the nonconsensual disclosure from students’ educational records; one exception is that records may be disclosed to individual school personnel who have been determined to have a legitimate educational interest in the information. **This was addressed in our October, 2015 training.**

- **Disclosure of Directory Information –** School officials may not designate students’ sex including transgender status, as directory information because doing so could be harmful or an invasion of privacy.

- **Amendment or Correction of Education Records – “NEW”**

A school may receive requests to correct a student’s education records to make them consistent with the student’s gender identity. Updating a transgender student’s education records to reflect the student’s gender identity and new name will help to protect privacy and ensure personnel consistently use appropriate names and pronouns.

This section is verbatim from the Dear Colleague Letter:

Under FERPA, a school must consider the request of an eligible student or parent to amend information in the student’s education records that is inaccurate, misleading, or in violation of the student’s privacy rights. If the school does not amend the record, it must inform the requestor of its decision and of the right to a hearing. If, after the hearing, the school does not amend the record, it must inform the requestor of the right to insert a statement in the record with the requestor’s comments on the contested information, a statement in the record with the requestor’s comments on the contested information, a statement that the requestor disagrees with the hearing decision, or both. That statement must be disclosed whenever the record to which the statement relates is disclosed.

Under Title IX, a school must respond to a request to amend information related to a student’s transgender status consistent with its general policies for amending other student’s records. If a student or parent complains about the school’s handling of such a request, the school must promptly and equitably resolve the complaint under the school’s Title IX grievance procedures.

As you can see, we were ahead of the game and have shared most of the contents of the Dear Colleague Letter with you via training. The guidance simply supports and undergirds what we have been told to do since September, 2015.

Thank you for your time. If you have any questions, please don't hesitate to ask. I am currently working on the following:

- A transgender Support Plan
- A Gender Transition Plan
- Procedures for working with Transgender and Gender Nonconforming students

Dr. R-

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